

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:07CR3005
)	
v.)	
)	
RICHARD FLEMING,)	MEMORANDUM AND ORDER
)	
Defendant.)	

The government has filed a motion for an order directing the defendant to submit to a debtor's exam by providing, no later than two weeks prior to his sentencing scheduled for August 20, 2009:

- 1) The documents described in Attachment A of the government's index of evidence;
- 2) A completed U.S. Department of Justice Financial Statement of Debtor, also filed with the government's index of evidence; and
- 3) Any additional financial information sought by the U.S. Probation Office.

Filing No. [156](#), at p. 1. Attachment A requests the following:

Provide all of the following for the period of time from January 1, 2007 (indictment was returned 1/18/07) through July 31, 2009:

1. Earning statements from your paychecks.

2. Business records which reflect assets, liabilities, gross receipts and expenses for any sole proprietorship, partnership or corporation in which you, or your spouse, owned any interest.
3. Bank statements from all banks or other financial institutions, where any sole proprietorship, partnership, or corporation in which you, or your spouse, owned any interest, or had an account of any kind.
4. Bank statements from all banks, or other institutions, where you, or your spouse, have an account of any kind.
5. All trust agreements in which you, or your spouse, are named trustor, trustee or beneficiary.
6. All deeds, leases, contracts, and other documents representing any ownership interest you, or your spouse, have in any real property, and all deeds of thrust, mortgages, or other documents evidencing encumbrances of any kind on your real property.
7. All stocks, bonds, or other securities of any class you may own, by you separately or jointly with others, including options to purchase any securities.
8. Titles to all motor vehicles owned by you or your spouse.
9. All life insurance policies in which you are either the insured or the beneficiary.
10. All promissory notes held by you, and all other documents evidencing any money owed to you either now or in the future.
11. All financial statements furnished by you within the past five years.

12. All deeds, bills of sale, or other documents prepared in connection with any transfer made by you, either by gift, sale, or otherwise within the last five years.
13. A schedule of all regular expenses paid by you, such as installment debts, food, utilities, etc. Include the amount paid, the payee, and, if an installment debt, the amount of debt owing and any security pledged.
14. All documents evidencing any interest you have in any pension plan, retirement fund, or profit-sharing plan.
15. All records pertaining to your assets and finances.
16. Copies of income tax returns.
17. All records of any unincorporated business of which you are an owner or part-owner, or have been an owner.

Filing No. [157-2](#).

All or a portion of the documents and information described above were requested of the defendant during pretrial proceedings. The defendant repeatedly failed to comply with the court's pretrial requests for complete financial information. See, filing no. [73](#). The defendant ultimately entered a plea of guilty, and under the terms of the plea agreement, agreed to "provide all of Defendant's financial information to the United States and the Probation Officer, and . . . if requested, to participate in a pre-sentencing debtor exam." Filing No. [138](#), ¶ 5(c). According to the government's for debtor's examination:

In paragraphs 74-76 of the Revised Presentence Investigation report, the probation officer reports that the defendant has yet to provide information regarding his income, assets, loans, and expenses, thereby precluding the probation officer from being able to calculate the defendant's ability to pay a fine or restitution.

Filing No. [156](#), at p. 1.

Defendant's continued refusal to provide his financial information is inexcusable and will not be tolerated. Accordingly,

IT IS ORDERED:

- 1) The government's motion, (filing no. [156](#)), is granted, and
- 2) On or before August 6, 2009, the defendant shall provide to the United States and defendant's Probation Officer:
 - a. All documents requested in Attachment A of the government's index of evidence, (filing no. [157-2](#)), the content of which is also fully reproduced herein;
 - b. A completed U.S. Department of Justice Financial Statement of Debtor, a copy of which is filed with the government's index of evidence (filing no. [157-3](#)); and
 - c. Any other information requested by the U.S. Probation Office regarding defendant's assets, debts, and finances.

DATED this 3rd day of August, 2009.

BY THE COURT:

Richard G. Kopf
United States District Judge